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April 17, 2014

VIA ELECTRONIC MAIL

Ms. Jennifer LaPoma
ATTN: Lower Passaic River Remedial Project Manager
Emergency and Remedial Response Division
U.S. EPA, Region 2
290 Broadway, 20th Floor
New York, New York 10007

**Re: Response to April 16 letter "Daily Schedule Updates and Sample Collection Notification"
Lower Passaic River Study Area (LPRSA)
River Mile 10.9 Removal Action
CERCLA Docket No. 02-2012-2015**

Dear Ms. LaPoma:

de maximis, inc. is writing on behalf of the LPRSA Cooperating Parties Group (CPG) in response to Region 2's April 16, 2014 letter directing daily schedule updates of activity at the RM 10.9 Removal Area. Region 2's letter is inaccurate and is not reflective of the actual events. As a point of clarification, the CPG and its contractors have been providing a daily schedule of planned activities. The daily schedule is included as an agenda item on each weekly teleconference and is discussed with EPA and CDM, the oversight contractor, during those teleconferences. As those schedules note, the work day generally begins every day at 7 AM. The CPG also provides the anticipated time at which the placement of fabric and armoring stone will occur for each day. As has been stated during the weekly conference calls, the start and duration of these armoring activities will vary depending on the tides and currents. Furthermore, CDM is kept informed of all such activities on a real-time basis. CDM is also notified the evening before if modifications to the next day's starting time are made so that they can be onsite on time to witness all armoring activities. In order to ensure that both the Region 2 OSC and RPM are aware of all activities, the CPG will directly contact and provide schedule modifications to Region 2 staff, in addition to providing same to CDM.

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The CPG and its contractors anticipate that there will be periods over the next 2 weeks when the CPG will fill in armoring stone where interim surveys indicate more stones are needed. For today and tomorrow (April 17-18), those activities may occur after the morning's armoring activities are completed; if this is the case, both the Region 2 RPM and the OSC will be informed as the armoring activities are brought to a close. Additionally, CDM will continue to be informed in real time so that they can continue their oversight activity. For the week of April 21 – 27, because the tides dictate afternoon panel placement, it is possible that the stone supplementing activity may occur in the mornings before the planned placement of fabric panels. If so CPG will inform the EPA RPM and the OSC the evening before those activities are likely to occur so that EPA or CDM may be present for both the supplemental armoring and the placement of the fabric panels.


As directed in Region 2's April 16 letter, the CPG will provide advance notice of all sampling activities. The only remaining activity that may qualify as sampling is to measure active layer thickness in Panels N37, N38 and N39, an activity described in a Technical Memorandum submitted to EPA on April 14. The CPG is now scheduling that activity for this Friday, April 18 at 9 AM. If weather or other factors lead the CPG to modify this schedule, the new notification time frames that you lay out in the April 16 letter will be followed.

Region 2's April 16 letter implies that the CPG's measurement of active layer thickness is not in compliance with the AOC Section VIII, Paragraph 23. The CPG objects to this implication as this is inaccurate and based on no objective criteria. That section of the AOC was designed to address collection of sediment and water samples for chemical and geophysical analysis covered by a QAPP. The specific sampling event cited, the measurement of active layer thickness on April 19, is not a QAPP defined event. Rather it is part of normal construction monitoring practices. Furthermore, the April 9 event followed much more significant construction activities weeks earlier that were observed and confirmed by CDM in that exact same area:

- the mechanical removal of stone;
- coring to determine the active layer thickness after stone removal; and,
- the addition of more sand and AquaGate™ to increase this section's active layer thickness after the bulk of the stone were removed.

In addition, photos of the April 9 activities, which involved non-invasive manual cleanup of residual stones in the area followed by re-confirmation of active layer thickness with two additional cores, were subsequently provided to Region 2 and its contractors. Moreover, they were provided with the same offer that has been made since remobilizing to the RM 10.9 Removal Area in February: that the CPG contractors will sample active layer thickness in any location specified by Region 2 and its oversight contractor, and at any time that is convenient for Region 2 and its contractors to observe, so that Region 2 can gain independent confirmation that the active layer meets the design requirements prior to placement of the armoring layer. Rather than ask for more cores to be taken with EPA or CDM participation, EPA's response was, "There is no opposition to moving forward based on the information you provided."

The CPG suggests that it might be more constructive in the future for Region 2 to discuss these issues in-person or via teleconference rather than to exchange letters.


de maximis, inc.

If you have any questions, please contact Bill Potter, Rob Law or me at (908) 735-9315.

Very truly yours,

de maximis, inc.



Stan Kaczmarek, PE
RM 10.9 Removal Action Project Coordinator

cc: Rob Law, de maximis
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